

UNITED STATES OF AMERICA )  
 )  
v. ) CASE NO. 3:12-CR-03-002-PLR  
 )  
DANIEL ISAAC JOHNS )

This matter is before the court on the defendant's motion for sentence reduction pursuant to Amendment 782 to the United States Sentencing Guidelines [R. 285, 297]. The government has responded deferring to the court's discretion whether and to what extent to reduce defendant's sentence [R. 302]. The United States Probation Office has provided the court with a memorandum regarding retroactivity of Amendment 782. The defendant is presently scheduled for release on February 14, 2016.

The defendant was convicted of conspiring to distribute and possess with intent to distribute oxycodone, in violation of 21 U.S.C. §§ 846, 841(a)(1) and (b)(1)(C). Defendant was held responsible for 4,426 thirty-gram oxycodone pills, or 889.63 kilograms of marijuana equivalent.

At sentencing, defendant's base offense level was 27, with a criminal history category III, resulting in an advisory guideline range of 87-108 months. The government filed a motion for downward departure in light of defendant's substantial assistance, pursuant to 18 U.S.C. § 3553(e) and USSG § 5K1.1. The court granted the motion and

sentenced defendant to 48 months imprisonment, 45 percent below the low end of the guidelines range.

Amendment 782 reduces the guideline range applicable to defendant. Pursuant to Amendment 782, the defendant's base offense level is 25, with a criminal history category III, resulting in an amended guideline range of 70-87 months. Giving defendant a comparable adjustment for substantial assistance (45%), and taking into account the policy statements set forth at USSG § 1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), it is hereby ORDERED that the defendant's motion [R. 285, 297] is GRANTED, and the defendant's sentence is **reduced to 39 months**.

If this sentence is less than the amount of time the defendant has already served, the sentence is reduced to a "time served" sentence. *See* USSG § 1B1.10(b)(2)(C).

Except as provided above, all provisions of the judgment dated June 19, 2013, shall remain in effect. **The effective date of this order is November 2, 2015.** *See* USSG § 1B1.10(e)(1).

**IT IS SO ORDERED.**

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UNITED STATES DISTRICT JUDGE